AMENDMENTS TO THE DRAWINGS

Fig. 3

Attachment: Replacement Sheets

REMARKS

Claims 8-15 are all the claims pending in the application. Claims 8-12 and 15 are rejected. Claims 8-12 and 15 are amended in order to clarify the subject matter of the invention. Claims 13 and 14 are withdrawn from consideration but have been amended in order to maintain consistency with their parent claims.

Election of Species

The Examiner has maintained his holding that claims 13 and 14 are withdrawn from examination as being directed to a non-elected species. The Examiner notes Applicant's election of claims directed to species 1 and has explained the basis for his holding that neither of claims 10 or 14 is generic. Applicant accepts the Examiner's conclusions.

Applicants have maintained the pendency of claims 13 and 14 should their parent claims be allowed. To that end, Applicants have amended claims 13 and 14 for consistency with the terms now used in parent claim 8. Nonetheless, Applicants reserve their rights under 35 U.S.C. § 121 to file a divisional application directed to the subject matter of these claims.

Drawings

The Examiner objects to the drawings for several reasons and offers additional comments and questions. Applicant's traversal and/or explanation with respect to those objections, comments and questions are as follows.

First, the Examiner objects to the drawings as failing to comply with 37 C.F.R. § 1.84(p)(4). In support of this objection, the Examiner notes that the reference character 41 in Figs 1-3 is used to refer to a given structural element while the reference character 141 is used in Figs. 4 and 5 to refer to the same structural element. The Examiner interprets Rule 84(p)(4) as prohibiting the use of different reference numerals for the same part, apparently without regard to whether that part refers to the same or different embodiments. To the extent that this is the Examiner's interpretation of the rule, the interpretation is not correct.

Figs. 1-3 concern the first embodiment, as is clear from the Brief Summary of the Drawings at paragraphs [0013]-[0015] of the specification while Figs. 4 and 5 concern the

second embodiment of the invention as expressly stated in paragraphs [0014] and [0015] of the application. The illustrations are of two different embodiments of the invention, which itself is a combination of elements as is clear from the claims.

The provisions of Rule 84(p)(4) concern views of the same embodiment of the invention. They do not concern multiple embodiments. Indeed, to require the same number to be used for a common element used in all embodiments would lead to chaos and confusion. Using a numbering system that is tailored to each embodiment permits a convenient relationship between the illustration in the Figures and the specification. According to such numbering system, all elements in a given figure may have the same first numeral, such as "5" for Fig. and "9" for Fig. 9. While there is no requirement to follow a common numbering system, often the second number(s) used refer to a common element. However, it must be understood that for a given embodiment, the combination of limitations interact in different ways that merit use of different numbers, even though a component appears to be the same.

So too in the present application, the Figures representing the first embodiment fully comply with Rule 84(p)(4) by using the same numbers for the same elements in the different views of the same embodiment. Elements 41 and 42 are different fins of the first embodiment located at different, diametrically opposite peripheral areas of the outer cone (see paragraph 0026 of the publication of the application: Pub. No. US 2005/0207829) and must be numbered differently for the sake of clarity. Similarly, the illustrations in Figs. 4 and 5 of the second embodiment use the same numbers for the same components and different numbers for different components. The illustrations of the first and second embodiments differ by use of a tens series for the first embodiment and a one hundreds series for the second embodiment. This is quite conventional in U.S. patent practice.

Fig. 3 used both numbering systems to designate a common structure. Since Fig. 3 is identified in paragraph [0015] as illustrating the first embodiment, a revised Fig. 3 is being submitted that deletes the parenthetical reference to the structures of the second embodiment. Given the foregoing explanation, this change should be sufficient to overcome the Examiner's objections.

The propriety of Applicant's position is exemplified by the Examiner's comment that the fin "141" in Fig. 5 does not appear to have the curved end at the left side as shown in Fig. 2. This is because the fin 141 in the second embodiment illustrated in Fig. 5 is different from the fin 41 in the first embodiment that exemplifies the invention. The Examiner's stated assumption at page 3 of the Office Action that the fins are the same is not correct, and different numbering is essential for clarity.

Finally, the Examiner asks why Fig. 3 contains reference characters of the second species. Applicants submit that the Figure follows a convention applied in many patent offices world-wide, including the U.S. That is, an illustration common to multiple embodiments may have reference numerals related to all embodiments shown. However, in order to avoid confusion, the reference numerals for the second embodiment have been removed from the revised Fig. 3.

Specification

The Examiner has objected to the specification because of its inconsistent use of numeral 24 at page 5, lines 4 and 10. Applicants have amended the specification in the second referral to reference numeral '24' (see paragraph 0024 of the publication of the application: Pub. No. US 2005/0207829) to refer to "a radial edge acting as a limit stop surface (24)."

Claim Objections

Claims 8, 10 and 12 are objected to because of certain informalities identified by the Examiner. In order to overcome the identified objections, in claim 8, Applicant replaced the term 'it' with "the spreading element". Also, in claim 8, Applicants have changed the wording to use "axially supported at" as suggested by the Examiner. As to claim 10, the wording 'in a pot-like fashion' has been changed to "as a pot." Finally, in claim 12, Applicants deleted the term 'formed by'.

Claim Rejections — 35 USC § 112

Claims 8-12 and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is traversed for at least the following reasons.

Claim 8

Applicant has corrected the wording of claim 8 to "a first limit stop disposed at an end of said inner tube" and "a second limit stop disposed on the free end of said adjusting screw." This change is supported by the disclosure in the original specification, e.g., paragraphs [0020] and [0023] of the published application (Pub. No. US 2005/0207829).

Also, Applicant replaced the term 'a spreading element, said spreading element structured to be radially pressed apart, said spreading element' of claim 8 to "a spreading element, radially spreadable."

Claim 9

In claim 9, Applicant amended the claim to refer to a "ski or a walking stick." This text is supported by the original specification, e.g., paragraph [0005] of the published application (Pub. No. US 2005/0207829).

Claim 10

In claim 10, Applicant simplified the wording to read "configured as a pot, the base of which is penetrated by a free end.".

Claim 11

Applicants now have specified the term 'smaller' to refer to the base of the spreading element.

Also in claim 11, Applicant changed the wording to "said shoulder being axially guidable by a guide piece attached to the limit stop surface at the end of the inner tube facing the spreading element." This text is supported by the teachings of the original specification as exemplified by paragraph [0023] of the published application (Pub. No. US 2005/0207829).

Claims 12 and 15

The deficiency of 'indefiniteness' pointed out in claims 12 and 15 should be remedied by the above amendments in claim 8.

Claim Rejections – 35 USC § 102

Claims 8-12 are rejected as being anticipated under 35 U.S.C. § 102(b) by the German utility model DE 8,004,343 Ul (DSI-Sportartikel). This rejection is traversed for at least the following reasons.

DSI-Sportartikel

The cited reference discloses in Figures 1 and 2 (reference numerals of DSI-Sportartikel used) an adjustable-length pole comprising an outer tube (1), an inner tube (3), a guide piece (4), a cap nut (11) serving as an outer limit stop, an adjusting screw (5) axially oriented within the outer tube (1) and rotationally fixed at an end of the inner tube (3), a spreading element (10) structured to be radially pressed apart, and an interior cone-element (9) with an outer cone structured to fit within the inner cone of the spreading element (10) and which can be driven into the spreading element (10), forcing it to spread axially towards the end of the inner tube (3) for clamping the inner tube (3) within the outer tube (1).

However, DSI-Sportartikel fails to disclose at least the following features: (1) a spreading element disposed between the first (inner) limit stop and the second (exterior) limit stop such that it can move axially within narrow limits and (2) an axially moveable interior element.

The Examiner appended a copy of Figs. 1 and 2 and states that the spreading element 10 has a bore A9 defining an inner cone A10 and that it is disposed between the inner limit stop 4 and the exterior limit stop 11. The Examiner asserts that the interior element has an outer cone A11 structured , dimensioned and disposed for cooperation with the inner cone A10 of the spreading element 10. The Examiner also asserts that the interior element 9 has an internal threaded bore A12 cooperating with the adjusting screw 5 and that the spreading element 10 and the interior element 9 cooperate and form a spreading device axially supported at the end of the inner tube 3.

Applicants respectfully submit that the Examiner has misunderstood the present invention and the operation of DSI Sportartikel in several aspects.

In DSI-Sportartikel, each of the spreading element (10) and the interior element (9) has a screw thread. The interior element (9) is rotationally fixed to the screw (5) by a counter nut (8)

and is therefore not axially moveable along the screw. When axially rotating the inner tube (3) while keeping the outer tube (1) rotationally fixed, the interior element (9) rotates together with the screw (5) and the inner tube (3) relative to the spreading element (10). Furthermore, the spreading element (10) is not axially moveable along the screw within narrow limits, as its bore has a screw thread.

This is in direct contrast to the spreading element of the present invention. According to the present invention, the first element (interior element 17 in Figure 1) does not rotate together with the threaded rod/screw (18 in Figure 1). Even though there is an inner torque, here it is due to the screw (18 in Figure 1). This torque is smaller than the torque resulting from the friction between two conical surfaces in DSI-Sportartikel. Such friction between the conical surfaces is a disadvantage of the DSI-Sportartikel device that is avoided by the present invention.

Importantly, the relative position of spreading element (10 of Figure 1 of DSI-Sportartikel) and cone-element (9 of Figure 1 of DSI-Sportartikel) is pre-determined and fixed by the rotational position of the screw (5 of Figure 1 of DSI-Sportartikel. Therefore, the spreading element has no `play'.

These features are crucial to the present invention, as the 'play' which the spreading element has in Applicant's novel structure, provides the pole with an additional clamping effect in combination with its adjustability. This effect is an important added feature of the present invention that is not present in the DSI-Sportartikel invention. Specifically, the spreading element, after adjustment of the pole-length, is adjacent to the second (outer) limit stop. When axial pressure is exercised from above on the pole after length-adjustment, the spreading element is pressed against the inner 'wall' of the outer tube even more. Due to the intentional 'play', by exercising axial pressure on the pole from above, the spreading element is forced into the 'play' and can thereby spread even further against the inner wall of the outer tube by traveling further onto the cone of the interior element. The additional spreading therefore advantageously happens upon exercise of axial force on the pole from above. Therefore, more weight can be transferred over the pole than over any other state of the art poles without resulting in a length change. The adjusted length is retained up to higher degree of force when axial force from above is exercised on the pole.

The DSI-Sportartikel device only works due to the interior screw thread of the spreading element and the rotational fixation of the cone element on the screw. For the invention to be workable, the relative axial position of both elements has to be fixed and predetermined by the screw. This prevents the system from having 'play'.

Moreover, it is not suggested anywhere to introduce a feature that allows such 'play', nor would that be obvious to a person skilled in the art. There is no hint in the document pointing towards the development of an additional clamping effect that takes place when exercising axial force on the pole from above.

For all of the foregoing reasons, claim 8 and dependent claims 9-12 are not anticipated by the prior art.

Claims 8 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kupski (3,145,669). This rejection is traversed for at least the following reasons.

Kupski discloses, in Figures 5 to 7 (reference numerals of Kupski), an adjustable-length pole comprising an outer tube (41), an inner tube (40), a disc (43a), a screw (44), a cotter pin (44a), a threaded bolt (44), an expansion ring (16a), which is close-fitting, but rotatable within the outer tube (41), said expansion ring (16a) having a bore with two conical surfaces (27a, 28a) opposite of each other, as well as a drive cone (17a), and a plain cone (18a).

According to Kupski (lines 26 to 30 of column 3 in the patent), the drive cone (17a) is held against relative rotation with respect to the expansion ring (16a) by bosses (35', 36', 37'). By the disc (43a), the plain cone (18a) is therefore fixed rotationally and axially with respect to the screw (44), which results in the fact that the plain cone (18a) always rotates together with the screw (44) with respect to the inner tube (40). The plain cone (18a) is seated in camming relation in a conical surface (27a) in the expansion ring (16a), limiting the axial movement of the expansion ring (16a). The compression spring (47) serves the function of ensuring that the expansion ring (16a), respectively the drive cone (17a) is rotationally fixed with respect to the outer tube in an adjusted position of the pole (similar to the 'frictional' contact between the spreading sleeve and the outer tube in D S I- Sportartikel).

However, as in DSI-Sportartikel, Kupski fails to disclose at least the spreading element disposed between the first (inner) limit stop and the second (exterior) limit stop such that it can move axially within narrow limits.

As mentioned above, these features are crucial to the present invention, as the 'play' which the spreading element has, provides the pole with an additional clamping effect in combination with its adjustability. This effect is desired by the inventor and is not present in the Kupski device. Nor is such feature obvious.

Even if one skilled in the art would try to configure the expansion ring in a way that it could 'travel between the two cones (17a, 18a), the double-conical-surface arrangement of Kupski would prevent the additional clamping effect achieved by the present invention for the following reason. While traveling toward the plain cone (18a), for example, the expansion cone would expand in direction of the plain cone (18a). However, at the same time, it would become 'thinner' in circumference in the region of interaction with/toward the drive cone (17a), which is situated opposite to the plain cone (18a), with the expansion cone located between the two, while 'losing contact' with said drive cone (17a). The net expansion in such a case would be zero. This is in dramatic contrast to the additional expansion achieved in the present invention, resulting in an important additional clamping effect.

Therefore, Kupski doesn't disclose any axial 'play' for the expansion ring, as it is 'sandwiched' between two oppositely directed conical surfaces. There is no hint in Kupski that the introduction of axial 'play' for the expansion ring might be of any advantage for the overall clamping effect of the pole length adjusting system, which thus would not be obvious to a person skilled in the art. Furthermore, even if one would introduce 'play' into the system, this would not lead to an improvement of the invention, as the two cones (17a, 18a) have to axially approximate during adjustment of the pole length for the clamping effect to take place, making the introduction of 'play' superfluous in the invention by Kupski.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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